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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

S. PARKER CONSTRUCTION, INC., a
Utah corporation, dba BARRY
PARKER CONSTRUCTION,

Plaintiff,

v.

SUNTEX HOMES, LLC., et al.,

Defendants.

2:08-CV-1439 JCM (GWF)

Date: N/A

Time: N/A

ORDER

Presently before the court is plaintiff/counter-defendant/fourth-party plaintiff, S. Parker Construction, Inc, d/b/a Barry Parker Construction, and third-party defendants, Sean Barry, Shane Barry, and Scott Barry's (hereinafter collectively "S. Parker and Barry") motion to strike defendants Suntex Homes, LLC, Sierra Ridge, LLC, and NU-CO-BB-I, LLC's answer and enter defaults, and strike Sierra Ridge Ventures, LLC's counterclaim and third party complaint. (Doc. #69 and #70). No opposition has been filed.

Pursuant to 28 U.S.C. § 1654, a corporation may appear in federal court only through licensed counsel. *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). Failure of a corporation to retain counsel may result in its complaint or answer being stricken and a default being entered against it. *See United States Philips Corp. v. Synergy Dynamics Intl.*, 2007 U.S. Dist. LEXIS 99134.

1 S. Parker and Barry assert that Suntex, Sierra, and NU-CO-BB-I are Nevada limited liability
2 companies which, like Nevada corporations, are precluded from appearing without counsel.
3 However, they have failed to retain new counsel since the withdrawal of their counsel on May 9,
4 2008 (doc. #69-2), and have failed to participate in the litigation after it was removed to this court
5 on October 21, 2008 (doc. #1). On July 9, 2010, S. Parker and Barry filed a motion to strike the
6 defendants' answer and enter default (doc. #61) for failure to retain counsel. This court denied the
7 motion without prejudice, holding that the court could not locate any documents related to the former
8 counsel's motion to withdraw, and that no proof of service was submitted along with the motion
9 (doc. #67). Further, the court ordered that S. Parker and Barry could renew their motion upon proof
10 of service of the motion upon the defendants.

11 In the present motion (doc. #69 and #70), S. Parker and Barry reassert that due to the failure
12 of defendants to retain counsel for over two years, their answer should be stricken and that default
13 should be entered against them. Additionally, S. Parker and Barry provide the court with proof that
14 they made several attempts to serve the defendants. Specifically, they forwarded a copy of the
15 previous motion to strike to the last known address for said defendants, c/o Justin T. Ashworth, Esq.
16 (doc. #69-5). Upon receiving notification that the mailing was labeled "return to sender," S. Parker
17 and Barry researched on the Nevada Secretary of State's online records, and mailed its motion to the
18 mailing addresses listed for each of the members of the Suntex, Sierra Ridge, and NU-CO-BB-I
19 companies (doc. #69-6 and #69-7).

20 Subsequently, the motions mailed to Suntex and Sierra Ridge members were returned, with
21 a forwarding address for one of the members, Brent D. Butcher (doc. # 69-8 and #69-9). S. Parker
22 and Barry then mailed the motion to the new address to no avail. The motion was also sent to two
23 members of NU-CO-BB-I, yet only one was returned as undeliverable (doc. #69-10 and #69-4).

24 S. Parker and Barry assert that they adequately attempted to notify the defendants of the
25 present motion as well as the possibility of default. For over two years, neither Suntex, Sierra Ridge,
26 nor NU-CO-BB-I have provided the identity of replacement counsel, nor has Sierra Ridge prosecuted
27 its counterclaims or third party complaint in any way. In light of the proof of service, and the
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1 continued failure of the corporations to obtain counsel or actively participate in the litigation, this
2 court is inclined to grant the present motion.

3 Good cause appearing,

4 IT IS HEREBY ORDERED ADJUDGED AND DECREED that plaintiff/counter-
5 defendant/fourth-party plaintiff, S. Parker Construction, Inc, d/b/a Barry Parker Construction, and
6 third-party defendants, Sean Barry, Shane Barry, and Scott Barry's motion to strike defendants
7 Suntex Homes, LLC, Sierra Ridge, LLC, and NU-CO-BB-I, LLC's answer and enter defaults, and
8 strike Sierra Ridge Ventures, LLC's counterclaim and third party complaint (doc. #69 and #70) be,
9 and the same hereby is, GRANTED.

10 IT IS THEREFORE ORDERED that defendants Suntex Homes, LLC, Sierra Ridge, LLC,
11 and NU-CO-BB-I, LLC's answer be stricken and default be entered against them.

12 IT IS FURTHER ORDERED that Sierra Ridge, LLC's counterclaim and third-party
13 complaint be, and the same hereby are, DISMISSED.

14 DATED this 1st day of December, 2010.

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17 UNITED STATES DISTRICT JUDGE
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